

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ANN BOYNTON,

Plaintiff,

**STIPULATION**

- against -

OCCUPATIONS, INC. and MUTUAL OF OMAHA  
INSURANCE COMPANY,

07 Civ. 8521 (SCR)

Defendants.  
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**IT IS HEREBY STIPULATED AND AGREED**, by and among the undersigned attorneys, as follows:

**WHEREAS** defendant Occupations, Inc. established and maintained an employee welfare benefit plan providing long-term disability benefits to its eligible employees (the “Plan”);

**WHEREAS** plaintiff Ann Boynton (“Boynton”) was, at all times relevant herein, enrolled in the Plan;

**WHEREAS** defendant Mutual of Omaha Insurance Company (“Mutual of Omaha”), through a policy issued to Occupations, Inc., fully insures the benefits provided under the Plan; and

**WHEREAS**, as respects the Plan, Mutual of Omaha is therefore ultimately responsible for the payment of claims that are determined by the Court to be payable,

**NOW THEREFORE**, subject to the following conditions, Boynton agrees to discontinue, without prejudice, her claims against Occupations, Inc.:

1. Mutual of Omaha agrees and stipulates that it will not assert, as an affirmative defense or otherwise, that the joinder of Occupations, Inc. is necessary and/or indispensable to the prosecution of Boynton’s claims herein;


2. Mutual of Omaha agrees and stipulates that neither the contemplated discontinuance of Boynton's claims against Occupations, Inc., nor Occupation, Inc.'s resultant absence from the action, shall in any way bar or preclude the assertion of Boynton's claims against Mutual of Omaha herein;

3. Mutual of Omaha warrants that, as respects the claims currently asserted by Boynton in her complaint herein, it will assume any and all liabilities for which Occupations, Inc. would have been answerable but for the voluntary dismissal; and

4. Occupations, Inc. agrees to be bound by any determinations handed down herein.

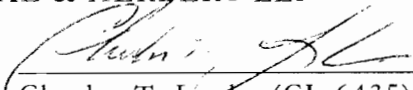
Dated: New York, New York  
October 30, 2007

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SO ORDERED:

  
U. S. D. J. 12/3/07